



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 19, 1995

Ms. Regina A. Atwell  
City Attorney  
City of Hillsboro  
P.O. Box 568  
Hillsboro, Texas 76645

OR95-1450

Dear Ms. Atwell:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35624.

The requestor has asked the City of Hillsboro (the "city") for information involving an individual who was arrested. You contend that the highlighted portions of a police report concerning the individual are protected from disclosure by common-law privacy. You also contend that EMS records responsive to the request are excepted from disclosure pursuant to chapter 773 of the Health and Safety Code.<sup>1</sup>

The doctrine of common law privacy excepts from disclosure information that is highly intimate or embarrassing to a reasonable person, provided also that such information is of no legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We have reviewed the highlighted information in the police report and agree that it is confidential under common-law privacy and may not be released. Open Records Decision Nos. 422 (1984), 370 (1983). We have also marked information that must be withheld.

We also agree that the EMS records at issue are confidential under section 773.091 of the Health and Safety Code, which provides:

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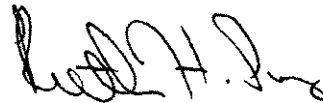
<sup>1</sup>Since you do not contend that any other information is confidential, we assume that any other documents responsive to the request have already been disclosed. You also indicate that the city does not have some of the information that was requested. The city does not have to supply information that does not exist. See Open Records Decision No. 555 (1990).

(b) Records of the identity, evaluation or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

Sections 773.092(a) and 773.093(a) provide for access to records when the patient or someone authorized to act on behalf of the patient submits a written, signed consent that specifies (1) the information to be released, (2) the reasons or purpose for the release and (3) the person to whom the information is to be released. *See Open Records Decision No. 598 (1991) at 4 n.2.* However, since you have informed this office that no such consent for release has been provided, the records at issue may not be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/rho

Ref.: ID# 35624

Enclosures: Marked documents

cc: Ms. Ann Dean  
2301 Forester Circle #8103  
Arlington, Texas 76006  
(w/o enclosures)